Testimony of the Honorable Glenn English
National Rural Electric Cooperative Association

Before the

Subcommittee on Energy and the Environment
Committee on Energy and Commerce
U.S. House of Representatives

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Introduction

Thank you for inviting me to provide the views of electric cooperatives on the American Clean Energy and Security Act of 2009 discussion draft circulated by the Committee on March 31. The National Rural Electric Cooperative Association (NRECA) is the not-for-profit, national service organization representing nearly 930 not-for-profit, member-owned rural electric cooperative systems, which serve 42 million consumers in 47 states. NRECA estimates that cooperatives own and maintain 2.5 million miles, or 42 percent, of the nation's electric distribution lines covering three quarters of the nation's landmass. Cooperatives serve approximately 18 million businesses, homes, farms and other establishments in 2,500 of the nation's 3,141 counties.

Cooperatives still average fewer than seven customers per mile of electric distribution line, the lowest density in the industry. Low population densities, together with the issues of traversing vast expanses of remote and often rugged topography, present unique economic and engineering challenges for electric cooperatives. As well, many co-op consumers face economic challenges. The service territory average household income for 786 electric co-ops (93 percent) falls below the U.S. average household income of $71,212. The service territory average household income for all electric co-ops is $61,416.

NRECA's objective is to help Congress develop and pass an affordable, workable, and sustainable piece of legislation to address the nation's energy and climate change objectives. Maintaining the affordability of electricity is the principle against which NRECA will judge all climate change and energy legislation.

NRECA will strongly object to any legislation that makes electricity unaffordable or gives Wall Street speculators the ability to set our nation's electricity bills. In 1938 President Franklin Roosevelt declared that electricity was a necessity, not a luxury. We must not turn back on that commitment from over 70 years ago. We do not have to, and should not, in climate change legislation.

I. Climate Change and Related Provisions

NRECA understands that the discussion draft is a starting point from which the Committee will work, and we appreciate the opportunity to express our views as the Committee considers this issue.

My comments will focus on one major objective: keeping electricity bills affordable for all Americans while achieving long-term emissions reductions. To maintain that affordability and achieve those reductions, we must carefully structure a federal climate change policy that utilizes least-cost alternatives and provides maximum flexibility. To meet this goal, the discussion draft must: include realistic timelines and reduction levels; freely allocate emission allowances to electric cooperatives rather than auctioning them; prevent Wall Street speculators from setting electricity prices; include meaningful cost-containment and flexibility mechanisms; establish a single, comprehensive federal program that supersedes other federal and state laws; and address the global nature of the issue.

Unless the program is improved substantially, and the allowance allocation methodology is properly crafted, the cap-and-trade program will unnecessarily raise costs on rural electric cooperative consumers. We look forward to working with the Committee to make these improvements.

I must also point out that NRECA is very concerned that Members of this Committee have a full understanding of the economic and environmental consequences of this legislation. With that in mind, we believe the major provisions of the legislation should be evaluated so members know the effect on costs to consumers. Developing those analyses (both by government agencies and private entities) takes significant time and resources, and it is unlikely at best that the Committee will have adequate information under the current timeline.

The Draft Cap-and-Trade Program Should be Amended to Protect Consumers

Electric cooperatives have a number of suggestions for improvements to the bill that can make it a more workable, sustainable, and most importantly, affordable piece of legislation.

Change the Caps in the Early Years to More Closely Match Technology Availability

The legislation's emission reduction levels and timelines are overly aggressive, particularly in the early years of the program. In the short run, there are relatively few choices to achieve reductions of greenhouse gas emissions. Outside of energy efficiency improvements, switching from coal to natural gas is the most likely scenario to comply with the caps in the bill, with some additional renewable energy being added to the generation mix. Congress and the Administration will have to make federal investments and solve considerable policy challenges if energy efficiency, renewable electricity and natural gas are to be adequate baseload resources.

Additionally, the legislation provides unrealistically little time for the Environmental Protection Agency (EPA), other agencies, and regulated entities to propose and finalize regulations, and prepare for the implementation of the cap-and-trade program. Within the legislation, there are countless new requirements on federal agencies, particularly the EPA. Even with the best leadership, the best of intentions and additional resources, experience teaches us that federal agencies have significant difficulty meeting congressionally-imposed deadlines that are overly aggressive.

NRECA recommends that the reduction requirements be adjusted during the first 15 years of the program to more accurately reflect the expected availability of technology. The Electric Power Research Institute's (EPRI) analysis of the potential to achieve significant emissions reductions using technology concludes that the electric utility sector could, if we hit the "technology lottery," reduce emissions to approximately 1990 levels by approximately 2030. Unfortunately, the discussion draft would seek to achieve those levels before the year 2020 – which is much too ambitious given the lack of affordable, commercially-available technologies to achieve those steep reductions.

NRECA also suggests that the first compliance year for the cap-and-trade program be adjusted to at least five years after the year of enactment to provide EPA, other agencies, and the regulated community time to prepare for the implementation of the program. Previous legislation (S. 139 (introduced in 2003); S. 1151 (2005); S. 280 (2007); S. 2191 (2008); H.R. 5049 (2006); and H.R. 6186 (2008), for example) has generally provided between four and seven years from the time the legislation was either introduced or voted on (for those bills in the Senate) until the first year of implementation. The first compliance year of the program must be more realistic.

Provide Allowances to Local Distribution Cooperatives to Directly Protect Consumers

The bill is largely silent on how emission allowances should be distributed under the program. NRECA strongly opposes an auction tax as a means of distributing emission allowances. Auctioning allowances is not necessary to achieve the environmental objective of a cap-and-trade plan – namely to achieve significant, long-term reductions in greenhouse gas emissions. Those reductions are achieved by the cap established in the legislation. An auction of allowances will not result in any further reductions of CO_2 emissions. It will only raise revenue.

The only reason to auction emission allowances is to raise revenue for the government – the very definition of a tax. NRECA does not believe that climate change legislation should be used as a method to enhance the government's revenues. Such a scheme would only serve to establish a variable tax to fund government programs.

Further, the level of the tax will not be set by Congress, but by the highest bidder in the auction. Given their size, it is extremely unlikely that electric cooperatives, such as Old Dominion Electric Cooperative in Virginia, or Hoosier Electric in Indiana, or Wolverine Power in Michigan will be the highest bidders in the auction. Instead, it will likely be

large, multi-national energy companies or Wall Street speculators who will set the tax on electric cooperatives. If the government needs to raise revenue to fund important national priorities, those taxes should be set by the government and collected by the Internal Revenue Service, not set by Wall Street and collected by utilities.

Given the current state of the financial services sector and the lack of significant cash reserves, cooperatives are very concerned about the possibility that there will be inadequate access to capital to facilitate bidding in an auction. To participate in the auction, utilities must provide financial assurances. Therefore, access to capital is critical to an entity's ability to participate in the auction. Beyond that, electric cooperatives are significantly debt financed, without significant cash reserves in place. (Cooperatives return excess revenue to member-owners in the form of "capital credits" rather than building up significant cash accounts.)

Finally, the principal reason given by auction tax advocates for such a scheme is to avoid giving industries "windfall profits." However, electric cooperatives are not-for-profit, consumer-owned utilities that provide electricity to our members. As not-for-profit entities, it is by definition impossible for cooperatives to receive "windfall profits." And because we provide electricity ***on an at-cost basis***, any additional costs borne by cooperatives are passed directly through to our member-consumers. Conversely, any costs avoided save on our consumers' monthly electric bills.

In the case of electric cooperatives, the most straightforward, efficient method of minimizing higher costs to our member-consumers is to freely allocate allowances to cooperatives. Co-op consumers will still face higher costs resulting from efforts to reduce emissions to the cap levels, and those costs will grow over time as the emissions cap declines. However, consumers can be protected from unnecessary higher costs that would result if co-ops are required to bid on allowances against for-profit entities.

NRECA recommends that the bill allocate emission allowances to local distribution cooperatives (LDCs) based upon the carbon content of the fuel mix used to produce the electricity sold by the LDCs. This allocation should not be phased out in favor of an auction tax. Further, to provide planning certainty, allowances should be allocated at least five years in advance.

NRECA also recommends that the legislation require the Energy Information Administration to develop a uniform methodology for determining the fuel mix used to produce the electricity sold by LDCs. Such standard protocols will be necessary to ensure that emission allowances are fairly and appropriately distributed in a manner that minimizes the economic impact on those who will be most affected by the legislation – namely those consumers who receive electricity generated using fossil fuels. Otherwise, allocation formulas would simply be a wealth transfer to regions that did not pay the carbon tax.

Prevent Wall Street Speculators From Setting Electricity Prices

In just the last decade, we've had a technology bubble, an oil bubble, and a housing bubble, not to mention the Enron fiasco and California's electricity crisis, each of which was at least partly caused by speculators and manipulators trying to make a buck at the expense of consumers. Have we not learned our lesson?

If an auction is used to initially distribute emission allowances, it will be an invitation to Wall Street speculators to develop schemes to manipulate the market, turn emission allowances into just another commodity like pork bellies, and essentially allow Wall Street to determine electricity prices in this country. Are we indeed willing to turn what Franklin Roosevelt called a "necessity" into a luxury available only to those who can afford to have electricity when carbon mitigation can be done at a much lower cost by Congress?

In addition to avoiding an auction, the legislation must include provisions that restrict the primary trading of allowances to only those entities which have a regulatory compliance obligation under the legislation and clearly define the role of non-regulated actors in ensuring a liquid market. Under a cap-and-trade system, the nation's rural electric cooperatives will require a regulatory framework for the markets that prevents market manipulation, excessive speculation, and price bubbles, while providing adequate liquidity and the opportunity for cooperatives to manage their carbon price risk and protect their consumers.

Improve Cost Containment to Promote Long-Term Carbon Reduction and Economic Sustainability

In order to contain costs, the bill establishes a Strategic Reserve, which auctions allowances only to covered entities. NRECA is very concerned that the minimum price is far too high to provide any meaningful cost containment. In fact, this minimum price is the same as the penalty for noncompliance in Section 723. Further, a price floor does not provide cost certainty. Only a price cap provides any assurance that costs will not spiral out of control.

Cost certainty and gradually rising prices are critical in the early years of a greenhouse gas cap-and-trade program as covered entities transform to low-carbon energy sources. The best method of assuring cost certainty is the inclusion of an economic safety valve. A safety valve limits the potentially destabilizing impacts of a cap-and-trade program on energy prices through the sale of additional allowances at a safety-valve price.

Those who argue that there should be no economic safety valve or similar provision are in fact stating that we should achieve the emission reductions ***no matter what the cost*** to the economy or consumers. NRECA strongly disagrees with that approach. We believe the nation's environmental goals must be balanced against the nation's economic goals, not that one automatically trumps the other.

NRECA recommends that a safety valve be included in the cap-and-trade program to assure cost certainty, at least for the initial 10-15 years of the program. The safety valve price should be set no higher than $12 per metric ton of CO_2 in the first year of the program and increase not more than five percent each year.

Promote the Use of Offsets and Biomass without Artificial Limitations

Appropriately, the bill allows the use of offset credits to satisfy a covered entity's compliance obligation but unfortunately limits the use of offsets to a percentage of the obligation. In the early years, the percentage allowed is approximately 30 percent, split evenly between domestic and international offset credits. The provision also requires the covered entity to hold 1.25 offset credits in lieu of each emission allowance.

NRECA recommends that a covered entity should not be constrained by an artificial limit on the use of offset credits to satisfy its compliance obligation. It is not necessary to artificially limit the use of offsets by covered entities. The size of the domestic and international offset programs will be limited by the available verified, cost-effective offsets. In addition, a covered entity should be able to satisfy its compliance obligation by holding an offset credit in lieu of an emission allowance, that is, a one-to-one exchange.

We support the fact that the legislation considers biomass a carbon neutral electricity source. Unfortunately, the biomass definition in Section 700 is overly restrictive, excluding biomass from federal land, among other things. The biomass definition should encourage, not discourage, the use of biomass as a fuel source by acknowledging that it is carbon neutral.

Establish a Single, Comprehensive Climate Change Program

The discussion draft currently includes limitations on the use of other provisions of the Clean Air Act to require greenhouse gas emission limitations. While this is helpful, it is unfortunately incomplete. Other statutes, most notably the Endangered Species Act, could be used to require emission limitations and other provisions of the Clean Air Act could potentially be used to require similar reductions.

The most effective way to address climate change is to develop a new, organic law that is the sole legal authority over greenhouse gas emissions. Therefore, the bill must explicitly clarify that no other provision of federal or state law can be construed to require any greenhouse gas limitation or requirement. If the Committee specifically wants to use certain provisions of existing law (such as for the transportation sector) to address climate change, then language should be included in the bill to explicitly reference those provisions and prevent the use of other provisions of law by including legislative language stating that "unless otherwise specified by the Safe Climate Act, no other provision of law shall be used to require any emission reductions or limitations for any substance regulated by the Safe Climate Act."

The discussion draft also would amend the existing Clean Air Act citizen suits and judicial review provisions to create an open-ended liability regime by allowing lawsuits based on, for example "expected harm," or "harm at risk of occurring." This standard is extremely broad and unworkable if the goal is to systematically reduce carbon emissions in a way that keep electricity affordable. NRECA recommends that Section 336 be deleted, other than conforming amendments to the existing Clean Air Act, so that no additional liabilities or causes of action would be created.

The legislation also partially addresses the issue of existing and proposed state and regional programs by imposing a short five-year prohibition (2012 to 2017) on state programs. The existing Clean Air Act provisions allowing more stringent state requirements are based on states' rights to address state or local air pollution. Obviously climate concerns are of an international nature, and no state or local mitigation efforts can make a significant impact on global concentration levels of greenhouse gases. Therefore, a single, comprehensive federal program to reduce emissions of greenhouse gases is the most cost-effective and efficient climate policy. A patchwork of state and regional programs, each with different reduction requirements, emission permits, and other compliance obligations, in addition to a federal program, would be overly burdensome without providing a clear environmental benefit. A five-year preemption is inadequate. Federal law should preempt all state, local and regional controls of greenhouse gas emissions, including common law, for causes of action arising or in connection with any greenhouse gas delineated by this proposal.

Promote Technology Development and Early Deployment and Minimize Consumer Costs

The legislation very helpfully includes provisions to provide incentives for early deployment of carbon capture and sequestration (CCS) technologies (the "Boucher bill"). NRECA supports this proposal, and believes it is the most realistic proposal to encourage early deployment of CCS. Developing CCS technology will help minimize long-term costs of achieving emissions reductions while allowing the U.S. to continue to use our most abundant, affordable energy source. However, electric cooperative consumers should not be "taxed" more than once for climate change objectives. Therefore, NRECA believes that any revenue cooperatives owe the federal government under any mechanism in this legislation should be reduced by the amount contributed to the CCS fund on a dollar for dollar basis.

Additionally, issues related to potential liability for sequestration of CO_2 must be overcome and an appropriate regulatory and liability system must be developed. Sections 111 and 113 are designed to study the obvious deficiencies in current law regarding defining and fairly apportioning legal liabilities for carbon transport and geologic carbon sequestration. But these sections only create commissions to study the issue and write reports with no mandates for action. NRECA believes that, to foster sequestration, we must construct a fair and comprehensive statutory liability scheme to address the vast and well-known regulatory uncertainties and liabilities in these areas. We look forward to working with the Committee in developing a more detailed program on this issue.

Avoid Duplicative, Unnecessary Command-and-Control Technology Standards

The discussion draft establishes performance standards for "new" coal-fired power plants "finally permitted" after January 1, 2009. For plants currently in the permitting stages, which can take 5 years or more, the overall plant designs and specific locations have been determined years ago. Thus, the trigger date for sources falling under this provision does not match facilities' planning realities. Additionally, since these units are under the cap, no performance standards are necessary. Such standards are only redundant and serve to drive up the cost of compliance.

"Global" Climate Change Must be Addressed Globally

Climate change is a global issue that the U.S. cannot address unilaterally; all major emitting nations, including key developing countries (China, India, etc.) must also address their greenhouse gas emissions in order to make meaningful environmental progress. Unilateral U.S. action to reduce greenhouse gas emissions would disadvantage our industries that trade in global markets during the transition to a low-carbon economy.

NRECA applauds the inclusion of a program to assist the deployment of clean technologies in developing countries. NRECA is active in assisting developing countries with electrification and looks forward to opportunities that may be provided under a program such as this to further assist rural communities in other nations.

There are significant sections of the discussion draft that are intended to address the issue of international competitiveness. Those legislative provisions need significant scrutiny, but any final legislation must include a WTO-compliant program to deal with other nations' emissions to ensure a level playing field internationally and to ensure that global climate change objectives are met.

II. Renewable Electricity Standard

Cooperatives are Leaders in Providing Renewable Electricity to Consumers

According to the Energy Information Administration, the industry as a whole generates about nine percent of its power from renewable sources, with non-hydro renewable electricity providing between two and three percent of power.[1] Cooperatives receive approximately eleven percent of their power from renewable sources, with about nine percent coming from hydropower and two percent coming from other renewable sources. Currently, 755 co-ops (nearly 90 percent) offer renewable energy options to consumer-owners.

[1] According to the most current EIA data available, in 2007 the industry as a whole generated 8.5 percent from renewable sources, of which about 6 percent was hydroelectric and just over 2.5 percent was from "other" non-hydro renewable sources. Preliminary EIA 2008 data projects non-hydro renewable generation at 3 percent and hydro holding steady at 6 percent.

Moreover, electric cooperatives have worked to increase their capacity to generate electricity from renewable resources. In 2008, for example, co-ops saw 65 percent growth in their non-hydro renewable capacity. These accomplishments have occurred as electric co-op consumers' demand for power has grown at over two percent annually (twice the national average for utilities) because people are moving into electric co-op territory.

Cooperatives use several tools to invest in renewable electricity. For example, cooperatives worked with Congress to create the Clean Renewable Energy Bonds Program (CREBs) in the Energy Policy Act of 2005. CREBs give the not-for-profit utility sector an incentive for building renewable electricity projects because most co-ops cannot use the Production Tax Credit (PTC) available to for-profit entities. Many cooperative-owned projects are already using CREBs and with funding provided through the American Recovery and Reinvestment Act, even more projects should be possible. Moreover, thanks to amendments to the 2008 Farm Bill, cooperatives have greater access to Rural Utilities Service (RUS) funding for building or acquiring renewable generation resources.

Cooperatives strongly support broader industry efforts to promote renewable energy development. NRECA, for example, has advocated for expansion and extension of the PTC; NRECA has also called on the Department of Energy to expand its National Interest Electric Transmission Corridors to enable construction of transmission for renewable resources; and NRECA has defended in court the federal transmission siting provisions Congress enacted in the Energy Policy Act of 2005.

Electric cooperatives are going beyond even these efforts. Currently, many cooperatives have joined the National Renewables Cooperative Organization (NRCO). NRCO is designed to facilitate the development and deployment of renewable resources for electric distribution and generation cooperatives. NRCO allows member cooperatives to invest in renewable generation projects, no matter their location. This helps get renewable electricity into the nation's fuel mix, while reducing its cost for cooperatives in areas that have less access to affordable renewable electricity.

A Renewable Electricity Standard (RES) Will Increase Consumer Costs

Unless and until legislation addresses many underlying challenges, an RES will increase costs to consumers without significantly increasing the development of renewable resources. For example, if utilities cannot acquire wind turbines fast enough, convince communities to accept the installations, and build the interstate transmission needed to integrate it, the RES will drive up the cost of existing renewable electricity resources and utilities will be forced to pay alternative compliance penalties to meet the balance of the federal requirement. On the other hand, if legislation helps the industry alleviate the challenges facing renewable development, the mandate is unnecessary.

Electricity produced from renewable sources can be considerably more expensive than electricity produced from traditional sources. Even where renewable resources are plentiful, renewable electricity often costs more to generate. While new coal and natural

gas-fired plants produce electricity, on average, for less than seven cents per kilowatt-hour (kWh), generating electricity from new renewable electric plants is significantly more costly. Electricity produced with biomass costs over 9 cents per kWh. Moreover, wind energy costs 11 cents per kWh and solar thermal energy costs 21 cents per kWh (before taking into account generous production and investment tax credits).[2] Furthermore, purchasing renewable electricity from out-of-state sources will be very burdensome and result in transferring massive amounts of money from local ratepayers to out-of-state producers.

On top of that, electric cooperatives would be required to pay additional transmission fees to use the grid to import that power from other states. A recent study examined the current grid serving the eastern half of the country against goals like the RES.[3] The study concluded that if the "U.S. wants to get 20 percent of its electricity from renewable [sources] by 2024, …it would be necessary to build a new electricity circulatory system, including 15,000 circuit miles of extremely high voltage lines."[4] Such a system would cost up to $100 billion. However, Congress must grant Federal authority for siting for such investments to even be possible.

The Draft RES Should be Amended to Protect Consumers

NRECA opposes the RES in its current form. It would impose a burden on many entities that are too small to have a significant impact on the nation's generation mix and that lack the resources to cost-effectively comply with the mandate.

Only Include Utilities with Retail Sales Above Four Million MWh

The draft legislation proposes an RES that would apply to all distribution utilities with one million MWh in annual retail sales. Many of the covered utilities would still be small utilities, as defined by the Small Business Administration, with annual sales of less than 4 million MWh. These small utilities would be unduly burdened by the administrative requirements imposed by the RES. They also lack the geographic scope, access to capital, and diversity of generation required to permit them to invest effectively in and reliably integrate the large scale renewable projects that offer renewable energy at the lowest costs.

Small utilities and their consumers would likely bear disproportionately high costs to comply with the RES. At the same time, excluding these small utilities will have only a de minimis impact on the nation's resource mix because even in the aggregate these utilities use only a small percentage of the nation's energy but would still be under a carbon cap which will itself incent renewable electricity investments.

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[2] NRECA calculations based on capacity cost and fuel price assumptions from the U.S. Energy Information Administration, Annual Energy Outlook 2009.

[3] "Joint Coordinated System Plan 2008." Organizations responsible for electric-system reliability in roughly half the states, including the Midwest Independent System Operator, SERC Reliability Region, PJM Interconnection LLC, the Southwest Power Pool, the Mid-Continent Area Power Pool and the Tennessee Valley Authority, contributed to the study.

[4] Wall Street Journal - February 9, 2009, "New Grid for Renewable Energy Could Be Costly."

In order to avoid unduly raising the cost of power to consumers served by small utilities, the RES should only apply to utilities selling over four million MWh annually.

Allow a Wider Variety of Renewable Sources and Efficiency to Count

The draft legislation adopts a narrower list of eligible renewable resources than some states allow, frustrating some state and cooperative efforts to promote a broader portfolio of environmentally favorable generation resources. Moreover, it does not fully recognize hydropower's renewable nature or the fact that nuclear generation is emission-free. Only in limited circumstances, generally where a hydro facility has become more efficient or has added capacity since 2001, does the RES allow hydropower as a renewable resource.

In some parts of the country, significant renewable resources are not readily available and therefore are limited in their ability to help meet the new capacity needs. For example, the Southeast lacks adequate wind or solar resources and there isn't enough cost-effective biomass to make up the difference without undermining the forest product industry crucial to the region's economy. The Midwest can't rely on consistent sunshine for solar power. Even where sun and wind are plentiful, the variable nature of the supply means it must be backstopped with other generation, usually gas turbines.

To overcome the challenges of limited supply of renewable electricity in some regions, the draft legislation should be amended to permit 50 percent of the RES to be met in any particular state with generation resources that qualify as "renewable" in that state but do not otherwise qualify under the federal program. Such an approach could easily be designed to offer appropriate respect for state priorities without undercutting national goals for the development of environmentally favorable generation resources. This could be accomplished without affecting a national market for RECs by assuring that RECs provided for a state defined renewable resource can only be retired for the federal RES obligation.

The draft legislation should also be amended to allow at least 25 percent of any year's mandate to be met with energy efficiency. Energy efficiency is often the least-cost generation resource. Preventing utilities from complying with the RES through efficiency gives utilities fewer options for complying in a cost-effective manner.

Adopt a More Feasible Compliance Schedule

The draft legislation would require utilities to make six percent of their retail sales renewable by 2012 and increase that amount to 8.5 percent in 2014. An RES will ultimately be more successful and impose fewer costs on consumers if it is implemented on a more reasonable compliance schedule. An accelerated schedule that moves ahead of parallel efforts to address real challenges to renewable energy development, such as inadequate transmission, merely bids up the cost of the limited base of renewable energy that is available and forces consumers to pay alternative compliance penalties.
The draft legislation should be amended to begin compliance in 2012 with a 2.75 percent reduction required, gradually rising to a 15 percent reduction in 2020.

Lower Alternative Compliance Payments

The draft legislation would require utilities failing to make the required renewable electricity retail sales to pay the lower of either: 1) 200 percent of the average market value of the previous year's credit; or 2) five cents per kWh. Add this cost to increases for new capacity, transmission infrastructure, and climate mandates, and electricity prices will rise quickly and create a hardship for many consumers.

The draft legislation should be amended to set the alternative compliance payment at the lower of either: 1) 200 percent of the average market value of Federal renewable energy credits and Federal energy efficiency credits for the applicable compliance period; or 2) 3 cents per kWh. While still high, this figure creates an incentive for utilities to invest in renewable resources while still capping the cost of the RES at a more affordable level for consumers.

Furthermore, the draft legislation should be amended to return all alternative compliance payments to utilities to further their work on renewable electricity, efficiency and weatherization.

Do Not Allow States to Regulate Transfers of Federal Renewable Energy Credits

The legislation permits the states to regulate the acquisition and disposition of federal renewable energy credits (RECs), permitting states to impose substantial compliance challenges and cost on entities seeking to comply with federal law, particularly those that operate in more than one state.

The draft legislation should be amended to delete this provision. Allowing individual states to impose varying requirements on the acquisition and disposition of these credits will encumber what should be a national market. State regulation creating impediments to the free flow of RECs will result in another layer of unnecessary costs for consumers. Just as the cap-and-trade program should be designed to permit utilities to find the lowest cost means of meeting federal climate targets, so should a federal RES be designed to permit utilities to find the lowest cost means of reaching the federal targets for renewable energy. Inconsistent state rules, confusion, and barriers to trade all undermine efficient decisions and raise costs – making power less affordable for consumers.

Make the CFTC the Regulator of the Renewable Energy Credits Market

The draft legislation would make the Federal Energy Regulatory Commission (FERC) the regulator of the markets for Renewable Energy Credits (RECs) and the derivative financial instruments associated with RECs. Those markets are more properly regulated by agencies such as the Commodity Futures Trading Commission and the Federal Trade Commission who have greater expertise in regulating similar markets.

The RES Duplicates and Potentially Undermines the Goals of CO_2 Regulation

If Congress enacts CO_2 emissions reduction legislation, a RES is unnecessary because utilities are highly likely to expand their investments in renewable electricity under a cap-and-trade regime. In many instances, renewable resources will prove to be the lowest cost means of reducing CO_2 emissions. As the cost of emissions credits required to use fossil generation rises, more utilities will make the economic decision to invest in renewable resources.

Second, the RES undermines the flexibility that is the cornerstone of a cap-and-trade program. The stated goal of cap-and-trade program is to allow utilities the flexibility they need to reduce emissions in the most efficient and cost-effective manner possible. By layering a mandate on sales of renewable electricity on top of the cap-and-trade program, Congress denies utilities the flexibility they need to find the best balance of resources they can to meet Congress' climate goals. The RES could force utilities to over-invest in renewable resources when another technology, such as nuclear or carbon-capture-and-sequestration might better reduce carbon emissions while also keeping electricity costs down for consumers.

III. Energy Efficiency Resource Standard

Electric Cooperatives are Leaders in Energy Efficiency

Energy efficiency comes naturally to electric cooperatives. The not-for-profit business model encourages cooperatives to use all cost-effective methods of distributing electricity as efficiently as possible. One out of seven people served by cooperatives lives below the federal poverty line. These consumers can see striking reductions in energy usage when aggressive efficiency measures are applied. Conversely, their incomes often do not allow them to make needed investments on their own, even in simple efficiency tools and techniques.

This is why NRECA advocates for extensions of consumer efficiency tax credits, increased federal investment in advanced energy technologies, and strengthened efficiency of hydropower projects and other existing generation. In the Energy Investment and Security Act of 2007, NRECA supported a national efficiency model building code. In 2008, NRECA called for a massive investment in weatherization for the poorest fifth of households. Cooperatives in many states are working with their state energy offices to develop effective efficiency programs using resources deployed by the American Recovery and Reinvestment Act of 2009.

Rising costs of new generation resources mean that efficiency is often the "least-cost" generation resource. Cooperatives lead the electricity industry in deployment of advanced meters and demand response.[5] Co-ops have also made a dramatic contribution

[5] A 2008 Federal Energy Regulatory Commission (FERC) study showed cooperatives leading the industry in advanced meter infrastructure penetration at 16.4 percent as compared to 4.7 percent for the industry as a whole.

to efficient electric system operation through developing MultiSpeak, a software standard that lets meters, consumer databases and utility plant data "talk" to one another, helping boost service reliability and reducing waste.

Electric cooperatives therefore boast a strong commitment to efficiency, as illustrated by these statistics:

- 92 percent of co-ops communicate directly with consumers about efficiency.
- 77 percent of co-ops offer energy audits for free or minimal costs.
- 49 percent of co-ops offer financial incentives to consumers to increase efficiency.
- 40 percent of co-ops provide weatherization and efficiency services to consumers.
- 50 percent offer advanced meters to some consumers.

Congress Should Not Enact an Energy Efficiency Resource Standard

NRECA opposes the Committee's proposal for an Energy Efficiency Resource Standard (EERS). It would punish utilities that have already been aggressive investors in energy efficiency and impose a burden on many entities that lack the resources or economies of scale to achieve significant energy efficiency savings.

The EERS is a Tax on Consumers

If the EERS actually requires utilities to invest in more energy efficiency than they would otherwise under their state obligations to provide electric service at the lowest reasonable cost, state energy efficiency programs, the CO_2 cap-and-trade program, and the RES, the EERS mandate would force utilities to make un-economic investments in efficiency measures or purchases of savings, imposing even greater costs on consumers than they are already experiencing with rising fuel costs, new capacity investments, and cap-and-trade compliance costs While consumers will use less power if they can no longer afford it, that is not an acceptable policy approach. Electricity is an essential service and the foundation for our economy. Moreover, consumers paying artificially higher electricity costs will have less disposable income to make more efficient choices in operating their homes and businesses.

This EERS is "One-Size-Fits-All"

This EERS ignores the huge difference in the ability of different utilities and regions to achieve efficiency savings based on their climate, customer base and historical efforts to promote energy efficiency. For example, utilities with more industrial and commercial load can more easily make efficiency improvements because the "lowest-hanging fruit" is commercial lighting. Cooperatives have the highest percentage of residential load of any industry sector, and thus less low-cost energy efficiency resources they can tap. Their consumers, who are disproportionately rural and more likely to be living in poverty, will be further burdened with higher compliance costs.

Many electric cooperatives will also be penalized that have long worked with their members to improve energy efficiency. Responsible utilities with long-standing efficiency programs will have to pay more to obtain additional efficiency improvements. As such, the EERS will act as a tax on those who have been most responsible.

Ultimately, usage decisions are made behind the meter by the consumer. If some consumers don't conserve or can't afford to make efficiency improvements, the utility and all other consumers will be unfairly taxed by being forced to pay for additional efficiency savings or compliance payments.

Electricity Experts Say this EERS is Not Achievable

The Electric Power Research Institute (EPRI) has assessed the achievable potential from energy efficiency and demand response programs. Given projected growth rates and technology, EPRI states that by 2020, realistic achievable savings are under five percent and the maximum achievable potential of both energy efficiency and demand response programs combined is just over ten percent.[6] The EERS as drafted would require utilities to make uneconomic energy efficiency efforts and pay alternative compliance penalties to the government to make up for the all but certain shortfall in results. Both act as an unreasonable tax on consumers, raising the cost of electricity and making this essential service less affordable for many low-income consumers.

The EERS Creates a New, Complex Federal Program for Issues Better Left to States

For good reason, Congress has traditionally deferred to states with respect to retail electricity issues, including whether to adopt retail competition, retail rate design, the adequacy and portfolio of generation resources acquired to meet retail energy needs, and the range of retail services utilities provide consumers. Congress has understood that retail electric service directly impacts a broad range of important local matters relating to the public health and welfare, local economic development, local environmental concerns, and more. Congress has also understood that there are significant differences between states and regions that must be taken into account in order to effectively regulate in the interest of local consumers. These include variations in climate, geography, local industries, available local natural resources, consumer income and education level, and many more.

Energy efficiency falls squarely within the class of issues that Congress has traditionally left to the states. For example, EPRI has explained the amount of energy efficiency that can cost-effectively be pursued differs widely by region according to the climate, penetration of appliances and efficiency measures in the existing housing stock, and the predominant industries.

Further, the states have aggressively taken up the challenge to address energy efficiency that Congress assigned to them in EPAct and again in EISA. In both statutes, Congress

[6] "Assessment of Achievable Potential from Energy Efficiency and Demand Response Programs in the U.S." Electric Power Research Institute, January 2009.

amended PURPA Title I to require states and covered non-regulated electric utilities to consider a broad range of issues, including several aimed at expanding energy efficiency efforts at the state level. Since that time a number of states have adopted their own EERS and many more are in the process of considering such programs.

The EERS Duplicates and Potentially Undermines the Goals of CO_2 Regulation

If Congress enacts CO_2 regulation, utilities are highly likely to expand their investments in energy efficiency because in many cases, those investments will be the lowest cost means of reducing CO_2 emissions. As the cost of emissions credits required to use fossil generation rises, more utilities will make the economic decision to invest in energy efficiency.

Second, the EERS is counterproductive because it undermines the flexibility that is the cornerstone of a cap-and-trade program. The stated goal of cap-and-trade program is to allow utilities the flexibility they need to reduce emissions in the most efficient and cost-effective manner possible. By layering a mandate on energy efficiency on top of the cap-and-trade program, Congress denies utilities the flexibility they need to find the best balance of resources they can to meet climate goals. The EERS could force utilities to over-invest in energy efficiency when another approach, such as renewable resources, nuclear energy or carbon-capture-and-sequestration might better reduce carbon emissions while also keeping electricity costs down for consumers.

Instead of "One-Size-Fits-All" Mandates, Encourage New Technologies and Incentives

Congress should encourage the development of new energy efficiency technologies and design incentives that match the actions utilities and their customers can take, alone or in concert, to increase efficiency. A better approach is to continue efforts, such as those funded in the American Recovery and Reinvestment Act of 2009, to help utilities increase education, efficiency auditing and weatherization activities. As well, Congress should give consumers at all income levels incentives to install efficient technologies and change electricity usage patterns.

IV. Transmission

The Nation Lacks Adequate Transmission to Deliver Increased Renewable Electricity Supplies

Transporting significant new quantities of renewable power between "have" and have-not" regions will require significant, lengthy, and costly upgrades to the cross-country transmission system. Transmission to handle the new renewable energy supplies should be in place before policies can be developed to accommodate the new demand for renewable energy.

The Draft Legislation Adopts an Effective Transmission Planning Process

The legislation adopts an effective transmission planning process that appropriately builds up from existing local and regional transmission planning efforts and that is focused on meeting consumer needs reliably and affordably, as well as meeting national environmental priorities. The legislation appropriately limits federal involvement in the planning process to coordination and loose oversight to ensure that national priorities are addressed by the planning entities.

The Draft Legislation Should also Address Cost Allocation and Siting

The legislation does not, however, address cost allocation or siting, which are key barriers to the construction of much needed new transmission.

NRECA proposes that the Committee add a new section on cost allocation that provides for all consumers in an Interconnection to share the cost of new extra high voltage interstate transmission facilities that arise from the transmission planning process defined in the legislation as well as the cost of any lower voltage facility upgrades required for the reliable interconnection and operation of the extra high voltage (EHV) facilities. Broad cost allocation should be conditioned on: the facilities arising from the planning process; a right for any entity to own a share of the facilities; and, limits on rate "incentives" available to those who build the facilities.

NRECA also proposes that the Committee add a new section on EHV siting. Entities wishing to build EHV facilities that arise from the legislation's transmission planning process should be able to petition FERC for a federal certificate of convenience and necessity and federal eminent domain authority. Federal siting should be conditioned on: the EHV facilities arising from the planning process; allocation of the costs of the facilities across the entire interconnection; a right for any entity to own a share of the facilities; and, limits on rate "incentives" available to those who build the facilities.

V. Plug-in Hybrid Electric Vehicles

Electric cooperatives support the further development and expanded use of plug-in hybrid electric vehicles (PHEVs). Through the Cooperative Research Network, cooperatives are actively investigating this exciting new technology. A Pennsylvania distribution cooperative has even deployed a PHEV bucket-truck.

However, the draft legislation directs states and unregulated electric utilities to consider an extensive and highly detailed federal standard for the promotion of PHEVs. Considering the large number of extremely complex issues expressly raised by the proposed standard, it would impose an undue burden on state and local regulators. The standard also fails to address a fundamental question - how to reconcile policies that promote vast expansions in use of these vehicles and policies (such as CO_2 emission reduction, the RES and the EERS) which will limit the nation's supply of electric generation capacity.

NRECA recommends that the Committee instead pursue a much simpler standard that gives local regulators greater discretion to determine how best to address questions concerning the integration of PHEVs into the electric utility infrastructure.

VI. Smart Grid Peak Demand Reduction Goals

Cooperatives are leading the electricity industry in deployment of advanced meters and demand response. Co-ops have also made a dramatic contribution to efficient electric system operation through developing MultiSpeak, a software standard that lets meters, consumer databases and utility plant data "talk" to one another, helping boost service reliability and reducing waste. Electric cooperatives continue to support the expansion of Smart Grid technologies where it makes economic sense for utilities and their consumers.

However, the draft legislation adopts a prescriptive approach to the Smart Grid and dramatically expands FERC's involvement in traditionally state and local matters. It does this by giving FERC the authority to review and impose pressure on state and local decisions regarding the nature of retail electric service, the structure and design of retail rates, investments in distribution system technology, and the resource plans adopted by electric utilities. NRECA recommends deleting this provision.

Conclusion

Again, thank you for the opportunity to testify at today's hearing. NRECA looks forward to working with Members of the Subcommittee, the full Committee, other committees with jurisdiction over various aspects of this issue, and the entire House of Representatives to develop an affordable, workable, and sustainable piece of legislation.